

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA
OMAHA DIVISION

WILLIAM E. SCHULTZ,

Plaintiff,

vs.

UNION PACIFIC RAILROAD
COMPANY,

Defendant.

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C.A. No. _____

COMPLAINT

Plaintiff, William E. Schultz, by his attorneys, Yaeger, Jungbauer, Barczak & Vucinovich, PLC, for his cause of action against Defendant, Union Pacific Railroad Company, states that:

1. At all material times, Plaintiff, was and is a resident of the State of Nebraska, the City of Omaha.

2. The Defendant, Union Pacific, was and is a Delaware corporation, and was and is an interstate carrier, operating an interstate system of railroads in and through several states, including the State of Nebraska, City of Omaha;

3. The jurisdiction of this court is based in part upon Title 45, United States Code, §§51-60, commonly known as the Federal Employers' Liability Act (FELA).

4. On or about September 27, 2001, Plaintiff was engaged in the scope and course of his employment as a systems engineer for the defendant railroad inventorying, assembling, shipping, and installing computer servers one at a time, and without any assistance, at Defendant's Headquarters Building in Omaha, Nebraska. On that day, Plaintiff received a larger than usual shipment of twelve (12) servers. The servers had been stacked onto three carts

(platform trucks) at the back loading dock by mailroom personnel. The servers weigh approximately sixty-five (65) pounds each and are worth Five Thousand (\$5,000.00) Dollars each. None of the carts was equipped with wheel locks, and one of the carts did not have two stationary wheels.

5. Plaintiff was about to assemble his ninth server of the day. As he lifted the first server from the cart to transfer it to the table for assembly, the cart suddenly, and without warning, started to roll away. Rather than dropping the server, Plaintiff attempted to set it down, and while doing so, felt a searing hot pain in his lower back.

6. The sudden movement of the cart and subsequent events caused Plaintiff to suffer serious and permanent injuries to his left foot, back, and other parts of his body, as a result of Defendant's negligent violation of the Federal Employer's Liability Act, to wit:

- a. Defendant railroad negligently failed to provide Plaintiff with a reasonably safe place to work;
- b. Defendant failed to provide adequate help;
- c. Defendant failed to provide proper equipment;
- d. Defendant railroad negligently failed to inspect and/or maintain the cart in question;
- e. Defendant railroad negligently failed to repair the defective condition have in place proper safety mechanisms such as a lock for the wheels;
- f. Other negligence.

7. As a result, in whole or in part of Defendant's negligent violation of the FELA, as set forth above, Plaintiff has in the past and will in the future suffer physical and emotional pain,

and require medical treatment for said injuries, including having undergone two back surgeries; requiring past and future medical care in amounts Plaintiff will prove at trial.

8. As a further result, in whole or in part of Defendant's negligent violation of the FELA, as set forth above, Plaintiff has in the past and will in the future suffer a loss of wages and loss or diminution of earning capacity, including fringe benefits, in amounts Plaintiff will prove at trial.

WHEREFORE, Plaintiff WILLIAM E. SCHULTZ asks this Court to enter judgment in his favor and against the Defendant UNION PACIFIC RAILROAD COMPANY in an amount sufficient to fully compensate Plaintiff for damages and injuries to be proven at trial and for his costs and disbursements.

PLAINTIFF REQUESTS A JURY TRIAL.

**YAEGER, JUNGBAUER, BARCZAK
& VUCINOVICH, PLC.**

Dated: September 22, 2004

s/Louis E. Jungbauer
Louis E. Jungbauer, MN Bar No. 134818
745 Kasota Avenue
Minneapolis, MN 55414
(612) 333-6371- Tel.
(612) 333-6319 - Fax
Email: LJungbauer@YJBV.com

ATTORNEYS FOR PLAINTIFF